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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/757,535      | 01/15/2004  | Timothy V. Smith     | 23746.00            | 4572             |

7590 12/22/2004

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EXAMINER

SZUMNY, JONATHAN A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3632

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/757,535

Applicant(s)

SMITH ET AL.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/15/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This is the first office action for application number 10/757,535, T-Connector Holding Tool and Method, filed on January 15, 2004.

*Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, drawn to a tool, classified in class 81, subclass 119.
- II. Claims 18-21, drawn to a method of tightening a third nut of a T-connector, classified in class 81, subclass 52.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, any sort of clamping device to immobilize the T-connector could be used to accomplish the method, not just the present product.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Warren Edmonds on December 16, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

*Information Disclosure Statement*

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "each claw" in line 1. There is insufficient antecedent basis for this limitation in the claim.

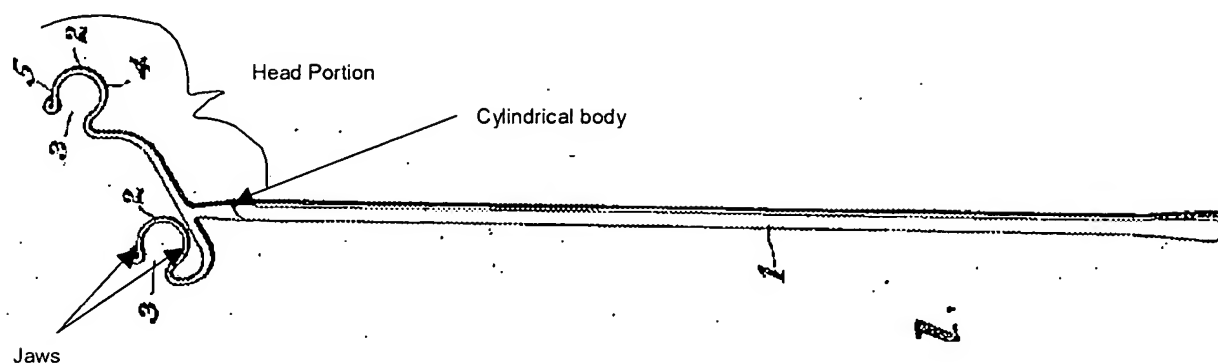
*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 1,006,721 to Clark.



Clark '721 discloses a tool (above) comprising an elongated handle portion with a grip portion (1) and a head portion (above) fixed to the handle portion having capturing means, wherein the head portion has a cylindrical body (above), wherein the capturing means comprises a pair of spaced rigid claws (2, inherently rigid relative to at least something else), each claw including an smooth arcuate interior cylindrical surface (above) that extends a majority around a circumference of a cylinder that is inherently adapted to capture an aligned nut so as to prevent lateral movement of two aligned nuts, wherein an axis of the cylinder is generally perpendicular to an axis of the handle portion, wherein each claw comprises a pair of jaws (above) inherently adapted for extending around a respective side of one of the aligned nuts so as to prevent lateral movement of the nut.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 5, 6, 8-12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark '721 in view of U.S. Patent number 4,004,476 to DeVrou.

Clark '721 teaches the previous invention failing to specifically teach the handle and head portions to be removably attached using a snap connection. Nevertheless, DeVrou '476 reveals a handle portion (14,50) and a head portion (socket member, inherently, not shown), wherein the head and handle portions are removably attached using a snap connection comprising a square shaped lug (16) extending out from the handle portion and extending into a hole/bore (inherently on the socket) formed in the head portion wherein the lug includes a snap connector having a spring-loaded ball bearing (44,46) extending from the square lug/drive and engaging a detent formed in the hole (inherently, similar to 30), wherein the bore inherently axially through the body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the head and handle portions of Clark '721 so as to have a snap connection as in DeVrou '476 so as to provide for a more adjustable device by allowing an operator to attach handle portions of various sizes to the head portion in addition to allowing an operator to quickly replace a damaged head portion.

Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark '721 in view of U.S. Patent number 4,004,476 to DeVrou, and further in view of U.S. Patent number 120,304 to McBride.

Clark '721 in view of DeVrou '476 teach the previous invention failing to specifically reveal the axis of the cylinder to be parallel to an axis of the handle portion, or the bore to extend transversely through the cylindrical body. Nevertheless, McBride '304 reveals a tool

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comprising removably attached handle and head portions (B,A), wherein the head portion has bores extending axially ( $a^2$ ) and transversely ( $a^3$ ) therethrough. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the tool of Clark '721 in view of DeVrou '476 so as to have a bore extending transversely through the head portion so as to increase the utility of the device by allowing the head portion to be used in different configurations. Further, after doing such, the axis of the cylinder will be parallel to an axis of the head portion.

#### *Allowable Subject Matter*

Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 13, the prior art as applied against claim 12 failed to further specifically teach the lug to have a cylindrical end portion.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hallgren '415, Jackson '791, Rippe '027, Collins '444, Maxwell '824, Cardinal '375, Hanson '339, Duckett '139, De Ronde '386, Nakayama '169, Rose et al. '682, Ratte '543, Gordon '160 and Adkison '260 teach various snap connections and tools with handle and head portions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a stylized, looping flourish extending to the right.

Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
December 20, 2004